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SERVICE DATE – SEPTEMBER 21, 2005

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34746]

Kansas & Oklahoma Railroad, Inc.–Acquisition Exemption–Rail Line of Union
Pacific Railroad Company

Kansas & Oklahoma Railroad, Inc. (K&O), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire (by purchase) from Union Pacific Railroad Company (UP) a 27-mile rail line between milepost 485.0 at Newton, KS, and milepost 512.0, at McPherson, KS. K&O has leased and operated the line under an agreement with UP since September 2002.¹

K&O certifies that its projected annual revenues as a result of this transaction will not result in K&O becoming a Class II or Class I rail carrier. K&O also states that its current annual revenues exceed \$5 million. This triggers the 60-day advance labor notice requirement at 49 CFR 1150.42(e). However, K&O requested a waiver of that requirement which was granted by the Board in a decision in this proceeding served on September 15, 2005.

As a result of the grant of the waiver, the earliest this transaction could have been consummated was on or after September 15, 2005, the service date of the waiver

¹ See Kansas & Oklahoma Railroad, Inc.–Lease Exemption–Union Pacific Railroad Company, STB Finance Docket No. 34232 (STB served Oct. 1, 2002).

decision, because the Board's grant of the waiver had the effect of making the exemption effective on September 15, 2005.

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34746, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Karl Morell, Of Counsel, Ball Janik LLP, 1455 F Street, N.W., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at
"WWW.STB.DOT.GOV."

Decided: September 15, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary